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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/712,172

11/13/2003

Andrew F. Kurtz

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06/08/2004

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EXAMINER

CHOWDHURY, TARIFUR RASHID

ART UNIT

PAPER NUMBER

2871

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

22

<b>Office Action Summary</b>	<b>Application No.</b> 10/712,172	<b>Applicant(s)</b> KURTZ ET AL.	
	<b>Examiner</b> Tarifur R Chowdhury	<b>Art Unit</b> 2871	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 and 15-28 is/are allowed.
- 6) ☒ Claim(s) 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                               |                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/13/03</u> . | 6) <input type="checkbox"/> Other: ____                                                |

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claim 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Abileah et al., (Abileah), USPAT 5,499,126.**

4. Abileah discloses (col. 27, lines 24-67) and shows in Fig. 18, a spatially patterned polarization compensator (62) comprising an optical structure fabricated with a spatially variant retardance that corresponds to the spatially variant retardance of a liquid crystal layer (38) (applicant's spatial light modulator).

Further, the limitation such as the when the patterned polarization compensator and the spatial light modulator are used in combination, a nominally spatially uniform retardance is obtained is inherent to the device.

Accordingly, claim 12 is anticipated.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abileah in view of Koch et al., (Koch), USPAT 5,619,352.**

8. Abileah differs from the claimed invention because he does not explicitly disclose that the compensator is fabricated with liquid crystal polymer materials.

Koch discloses a compensator that is fabricated with liquid crystal polymers materials. Koch further discloses that such a compensator is advantageous since they allow the possibility of inexpensive mass production of compensator components (col. 9, lines 39-50).

Koch is evidence that ordinary workers in the art would find a reason, suggestion or motivation to fabricate a compensator with liquid crystal polymer materials.

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention was made to substitute the compensator of Abileah with a compensator that is fabricated with liquid crystal polymer materials for advantages such as allowing the possibility of inexpensive mass production of compensator components, as per the teachings of Koch.

**9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abileah in view of Gunning, III et al., (Gunning), USPAT 5,638,197.**

10. Abileah differs from the claimed invention because he does not explicitly disclose that the compensator is fabricated with inorganic materials.

Gunning discloses inorganic thin film compensators for improved gray scale performance (title).

Gunning is evidence that ordinary workers in the art would find a reason, suggestion or motivation to use compensators that are fabricated with inorganic materials.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to substitute the compensator of Abileah with a compensator that is fabricated with inorganic materials in order to improve gray scale performance, as per the teachings of Gunning.

***Allowable Subject Matter***

11. Claims 1-11 and 15-28 are allowed.

***Conclusion***

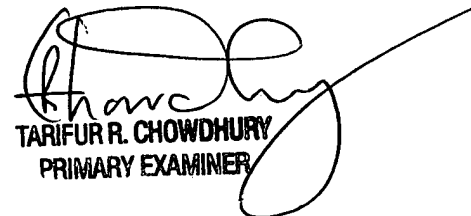
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tarifur R Chowdhury whose telephone number is (571) 272-2287. The examiner can normally be reached on M-Th (6:30-5:00) Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on (571) 272-2293. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TRC  
June 03, 2004



TARIFUR R. CHOWDHURY  
PRIMARY EXAMINER